

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

PETER A. HOCHSTEIN, et al.,

Plaintiffs,

Case Number: 04-73071

v.

JUDGE PAUL D. BORMAN
UNITED STATES DISTRICT COURT

MICROSOFT CORPORATION,

Defendant.

_____ /

**ORDER OF APPOINTMENT AND REFERENCE TO RICHARD GRAUER AS
SPECIAL MASTER PURSUANT TO FED. R. CIV. P. 53**

This is a complex patent case. The parties have stipulated to the appointment of Richard Grauer as a special master to report and recommend to the Court the disposition of Defendant's Motion for Construction of Claim 39, and additional matters as requested.

Under Federal Rule of Civil Procedure 53, the Court may appoint a special master to, *inter alia*, "perform duties consented to by the parties," Fed. R. Civ. P. 53(a)(1)(A), and to "address pretrial . . . matters that cannot be addressed effectively and timely by an available district court judge or magistrate judge of the district." Fed. R. Civ. P. 53(a)(1)(C).

Accordingly, it is ordered that:

1. Defendant's Motion for Construction of Claim 39 is referred to Richard Grauer to report and recommend in writing to the Court a proper disposition.
2. The special master will, after reading the pleadings as to this motion, confer with the Court and determine if oral argument is necessary.

3. The special master shall have the right to communicate ex parte with the Court.
4. The special master shall complete his work and issue his report and recommendations within 30 days, unless, on application to the Court, such time is extended.
5. (a) Any petition containing objections for review by the Court of the recommendations of the special master shall be submitted in writing within 10 days of receipt of the special master's report.

(b) Review of the report and recommendation of the references under ¶ 1 of this order shall be *de novo*.
6. The special master may use law clerks or paralegals at his discretion and shall keep detailed records of time and expenses. The special master shall render detailed monthly bills for fees and expenses at the same rates ordinarily charged clients for services, and such bills shall be paid promptly as follows: fifty percent (50%) by the plaintiff and fifty percent (50%) by the defendant. The monthly bills shall be submitted directly to counsel for these parties who shall take responsibility for prompt payment by their respective clients.
7. Objections, if any, to this order shall be filed within seven (7) days.

SO ORDERED.

S/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: April 16, 2009

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on April 16, 2009.

S/Denise Goodine

Case Manager